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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,999	09/24/2003	Donald Harney	P06680US0	6211
34082	7590	07/27/2006	EXAMINER	
ZARLEY LAW FIRM P.L.C. CAPITAL SQUARE 400 LOCUST, SUITE 200 DES MOINES, IA 50309-2350			THOMPSON, HUGH B	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/669,999

Applicant(s)

HARNEY, DONALD

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 17-19 is/are allowed.  
6) ☒ Claim(s) 1-16 and 20 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1-12-04.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-5 and 8-10, 16, and 20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 2, line 3, it is unclear as to what plate the applicant has referred. Note that “the base plate” has does have an opening disposed there through.

With respect to claim 8, the applicant has positively recited the scaffolding having a bore. Note that since the scaffolding is not apart of the support member, its relationship to the tube body will not be given any patentable weight.

With respect to claim 16, there appears to be no drawing showing a homogeneous base plate and plate. It is unclear if the applicant is trying to claim only piece having tow components.

With respect to claim 20, there appears to be no drawing or representation showing the base plate having an elevated center surface. Are there sloped ends of the base plate?

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Reichel #5,647,451. Reichel discloses a roof scaffold assembly comprised of base plate 12, 28 securable to a roof R through nail receiving apertures 14, plate 30, hinge 31 that is secured to plate hinge plate 36, and hollow rectangular sleeve 18, having an opening 26 therein that receives scaffolding 23, which is secured to hinge plate 36.

Claims 1, 6, 7, 11-13, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Herpen #4,909,483. Van Herpen discloses a roof scaffold assembly comprised of base plate 14 securable to a roof 64, plate (unnumbered), which is secured to hinge 16, the hinge 16 being rotatably secured to a hinge plate (unnumbered), and a hollow rectangular sleeve 20, which is secured to hinge plate.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8-10, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Herpen as applied to claims 1, 6, 7, 11-13, and 16 above, and further in view of Palmer #5,718,305. Van Herpen fails to disclose scaffolding matingly received within the hollow tube body secured thereto by means of a pin, and welded members.

Palmer teaches the utility of a scaffolding support assembly 16 having a hollow support tube 28 that matingly receives scaffolding member 38 for attachment to a harness assembly 18-

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22 (even), the member vertically adjustably secured thereto by means of a pin and aperture assembly 40, 42. Therefore, to one of ordinary skill in the art, it would have been obvious to provide the assembly of Van Herpen with a vertically adjustable scaffolding member as taught by Palmer so as to permit secure attachment to a harness assembly for safe use thereof, while producing no new and unexpected results. It would have been further obvious to provide welded attachment points for elements, this being an obvious design choice not expected to produce any new and unexpected results. (Note the weld attachments in Figure 1).

*Allowable Subject Matter*

Claims 17-19 are allowed.

The following is an examiner's statement of reasons for allowance: the inclusion of the method step requiring wedging of the support member underneath a roof shingle, nailing of the support member to the roof, and releasing of the shingle so that it covers a first end of the base plate. The prior art of record fails to teach or suggest the claimed features absent the applicant's own disclosure.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

July 23, 2006